



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: LALOY, Luc

SERIAL NO.: 10/656,864

ART UNIT: 3765

FILED: September 5, 2003

EXAMINER: Nerbun, P.P.

TITLE: HEADWEAR ITEM, AND MORE PARTICULARLY A CAP, A VISOR AND OTHERS

#### AMENDMENT "B"

Director of the U.S. Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of December 28, 2005, a response being due with a Request for Continued Examination by March 28, 2006, please consider the following remarks:

#### REMARKS

Upon entry of the present amendments, previous Claims 11 - 16 have been canceled and new Claims 17 - 21 substituted therefor. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of removing a non-elected embodiment and for placing the application into a better condition for allowance.

In the Office Action, it was indicated that Claims 11 and 13 - 16 were rejected under 35 U.S.C. § 102(e) as anticipated by the Park patent. Claim 12 was rejected under 35 U.S.C. § 103(a)

as being unpatentable over the Lee patent in view of the Brown patent and Seldner patent .

As an overview to the present reply, Applicant has canceled previous Claim 12 in view of the Examiner's rejections. Herein, Applicant is only per suing the embodiment of Figures 1 - 4 as defined by previous Claims 11 and 13 - 16, now Claims 17 - 21, respectively.

Applicant respectfully disagrees with the Examiner's analysis with respect to the anticipation rejection based upon the Park patent. The Park patent does describe a cap structure. However, the cap in the Park patent is described as having "The size adjustment device that is formed by attaching a non-stretchable fabric material 4 on top of a stretchable fabric material or band 5. . .", as found in Column 2, lines 48 - 50. Additionally, the structure of the band of the Park patent is further described in Column 2, lines 56 - 63 as the following:

Two pieces of cylinder-shaped fabric material form respective fabric sleeves 6 which enclose the non-stretchable fabric material 4. These sleeves are used to cover the non-stretchable fabric material 4 of the size adjustment device 8 when the cap is not in use. The stretchable fabric material or band 5 and the fabric sleeves 6 are respectively attached to each end of the sweat absorbent band 3 at the back portion of the 10 crown.

Fundamentally, the Park patent shows a cap having a headdress 1 made of several segments and a visor 2. The cap is equipped with sweat-absorbing band 3 that extends around a portion of the periphery of the headdress. However, the sweat-absorbing band 3 is not elastic. It can be easily concluded that this sweat-band 3 is not elastic since in order to adjust the size of the cap, a device 8 is attached onto the back part of the lower periphery of the headdress 1 at the area of the semi-circular cut-out. This adjustment device is made of a non-stretch fabric 4 attached to a stretch fabric 5. The stretch fabric 5 is illustrated in a cross-hatched form and placed at the back of the headdress. The non-stretch fabric 4 of the adjustment device 8 is used for a support for a decorative or

advertising element 7. Fundamentally, if the sweat-absorbing band 3 were elastic, there would certainly be no need to secure the stretch band 5 to the sweat band in order to achieve adjustability. The non-stretch fabric 4 and the stretch band 5 extend within a sleeve 6 made of a piece of material folded over and sewn on each end of the cut-out. In addition, the sleeve 6, the sweat-absorbing band 3 and the fabric bands 4 and 5 have a width substantially smaller than the height of the cut-out.

Fundamentally, the invention as described in previous independent Claim 11, now independent Claim 17, is patentably distinguishable from the Park patent. Applicant respectfully contends that the structure, as defined in independent Claim 17, is not "anticipated by" the teachings of the Park patent.

In independent Claim 17, it is recited that the "elastic band extends along an entire periphery of the headdress". In contrast, the elastic band 5 in the Park patent is locally placed locally in the back of the headdress. The sweat band 3 is quite clearly non-elastic.

Independent Claim 17 recites that the elastic band is cooperative with the headdress at least at the cut-out so as to be "visible at the cut-out". In contrast, in the Park patent, the elastic band 5 is quite clearly hidden within the interior of the headdress and within the interior of the non-elastic sleeve 6. In the area of the cut-out in the Park patent, it is only sleeves 6 and the advertising or decorative portion 7 that are visible. The decorative portion 7 is defined as a "non-stretchable fabric material. The sleeves 6 are also non-stretchable.

Independent Claim 17 recites that the cut-out is defined "by a selvedge line extending substantially parallel to the lower rim" of the headdress. In contrast, the Park patent shows the selvedge line as extending in a semi-circular configuration to the lower edge of the headdress. There

is no portion of the cut-out of the Park patent which would be considered to be substantially parallel to the lower rim".

Independent Claim 17 recites that the cut-out has a height dimension between the Selvedge line and the lower rim. It is further recited that the elastic band has a "width dimension approximately equal to the height dimension". This feature is neither shown nor suggested in the Park patent. Since the elastic band in the present invention has a width roughly equal to the height of the cut-out, the present invention utilizes the elastic band to cover this cut-out. In contrast, quite clearly in the Park patent, the semi-circular cut-out of the back of the headdress is exposed. The height of the cut-out is, in no way, substantially equal to the width of the elastic band. The sweat-absorbing band 3, or the bands 4 and 5 of the device 8 in the Park patent has a width that is much smaller than the height of the cut-out. So as to more clearly distinguish the present invention from the Park patent, independent Claim 17 now specifically recites that the cut-out has a "maximum height dimension" and that the elastic band has a width dimension approximately equal to this "maximum height dimension".

Additionally, and furthermore, it should be noted that independent Claim 17 recites that the elastic band has "an upper rim sewed to the headdress at the selvedge line. In contrast, the Park patent shows a sweat-absorbing band sewn to the sleeve at its upper edge.

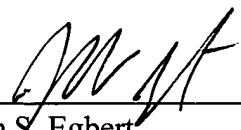
On this basis, Applicant respectfully contends that independent Claim 17, as amended herein, is patentably distinguishable from Park patent. Fundamentally, since all of the elements found in independent Claim 17 are not found in the teachings of the Park patent, it is not possible for the Park patent to "anticipate" the limitations of independent Claim 17.

Dependent Claims 18 - 21 herein correspond, respectively, to the limitations of previous dependent Claims 13 - 16. The dependency of Claims 18 - 21 has ben amended so as to reflect the introduction of new independent Claim 17.

Based upon the foregoing analysis, Applicant contends that independent Claim 17 is now in a proper condition for allowance. Additionally, those claims which are dependent upon the independent claim should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

3-28-06  
Date

  
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